

Town of New Boston, New Hampshire

DRUG AND ALCOHOL POLICIES AND PROCEDURES

Federal Motor Carrier Safety Regulated Drivers

I PURPOSE OF POLICY

- Compliance with DOT Regulations 49 CFR Part 382.
- To provide a safe, drug and alcohol free work environment.

POLICY STATEMENT

- No driver shall consume drugs or alcohol while on company time or property. This includes unpaid meal and break periods.
- No driver may consume alcohol four (4) hours prior to on-duty time as per 382.205
- No driver shall possess or be in control of any alcoholic beverage or controlled substance within any company building or vehicle.
- No driver will participate in the unauthorized use, abuse or sale of any controlled substance.
- We do not permit the use or sale of any controlled substance at any time.
- Participation in Town of New Boston's drug and alcohol testing program is a requirement of all drivers that qualify.

II. APPLICABILITY

- All drivers who operate Commercial Motor Vehicles (CMV) must be subject to testing in 382.103.

- All drivers who hold a Commercial Drivers License (CDL) and drive vehicles in the following categories:
 - a. Vehicles with a gross weight rating of 26,001 pounds or more.
 - b. Vehicles with a gross combined weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of 10,000 pounds.
 - c. Vehicles designed to transport 16 or more passengers.
 - d. Vehicles of any size used to transport materials found to be hazardous and which require the vehicle to be placarded under Hazardous Materials Regulation 49 CFR Part 172, subpart F.

III TESTING

- No driver shall report for duty or remain on duty that requires performing a safety-sensitive function when the driver uses any controlled substance, except when the use is at the instruction of a physician who has advised the driver that the substance does not adversely affect the driver's ability to safely operate a CMV as per 382.213.
- Although this policy prohibits the use of any controlled substance not lawfully prescribed by a physician, any drug test required under this policy will analyze an individual's urine (DOT required) to test for the presence of the following substances:

DOT:

1. Marijuana (THC)
2. Opiates
 - Codeine
 - Morphine
 - 6-AM (heroin)
3. Cocaine
4. Phencyclidine (PCP)
5. Amphetamines
 - Amphetamine
 - Methamphetamine
 - MDMA
 - MDA
 - MDEA

- The Town of New Boston has the right to do Non-DOT substance abuse testing in addition to the DOT required testing.

Non-DOT – Testing will be analyzed per individual by urinalysis hair follicle, saliva, and/or sweat. Drugs to be tested for are the five above plus additional substances if desired, but not required and not limited to:

(At the discretion of the employer per individual circumstances)

Benzodiazepines
Barbiturates
Methadone
Methaqualone
Propoxyphene
Expanded Opiates

- Alcohol screening tests are performed via breath analysis or saliva testing. A trained Breath Alcohol Technician (BAT) or Saliva Test Technician (STT) using the approved testing device; QED, (Quantitative Enzymes Diagnostics) will perform these tests.
- A trained BAT will perform confirmation testing on an evidential breath-testing device that is on the National Highway Traffic Safety Administration's Conforming Products List.

IV REASONS FOR TESTING

a. Pre-employment (382.301)

- Prior to the first time a driver performs a safety-sensitive function, or any duty for the company, he/she will undergo testing for controlled substances and will not be allowed to perform any such function unless a verified negative test result is received from the Medical Review Officer (MRO). If a pre-employment controlled substance test indicates a confirmed positive, the company will rescind the employment offer.

b. Post-accident (382.303)

- Any incident at the discretion of the Designated Employer Representatives (DER) in addition to the requirements of 382.303.
- As soon as practicable following an occurrence involving a Commercial Motor Vehicle (CMV) operating on a public road in commerce, the Company Employer shall test for alcohol and controlled substances each driver who:
 - a. Performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or

- b. Receives a citation under State or local law for a moving violation arising from the accident if the accident involved:
 - 1. Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident, or
 - 2. One or more vehicles incurring disabling damage as a result of the accident, requiring the vehicle to be transported away from the scene by a tow truck or other vehicle.
 - Per DOT regulations, drivers are prohibited from using alcohol for eight hours following any accident or until the required post-accident alcohol test is administered, whichever occurs first. Testing will be performed as soon as possible, but not more than eight (8) hours after the accident for alcohol and within thirty-two (32) hours for controlled substances.
 - a. As per Part 382.303 D1, if an alcohol test is not completed within 2 hours following an accident, the Employer must document the reason why the test was not administered. After 8 hours if the test is not administered, the Employer must cease attempts to test and document why the test was not administered.
 - b. As per Part 382.303 D2, if a drug test is not completed within 32 hours following an accident, the Employer is responsible for ceasing attempts to test and documenting the reason why the test was not administered.
 - All drivers will immediately contact a supervisor/employer for instructions. The driver will not drive to the testing facility. Either, the testing collector will travel to the accident, if applicable, or the driver will be brought to the testing facility.

c. Random Testing (382.305)

- All drivers subject to the Federal Motor Carrier Safety Regulations as outlined under APPLICABILITY section of this policy shall be required to submit to alcohol and substance abuse testing in a random program. The program shall be outlined as:
- The substance abuse testing program will be managed by Onsite Drug Testing of New England, LLC (ODTNE) located at 2 Industrial Park Drive Concord, New Hampshire 03301. ODTNE will perform all aspects of program management including, but not limited to, random selection,

blind samples, quarterly statistic reports, scheduling and/or collecting samples.

- Drug screen collections and alcohol tests will be performed at The Town of New Boston, a worksite of The Town of New Boston that has the proper accommodations, a collection site or at Onsite Drug Testing of New England, LLC, Concord N.H.
- Per the DOT regulations, random selection and subsequent testing will be performed at an annual percentage rate of 50% of eligible driver positions for controlled substances and 10% for alcohol. These tests will spread throughout the year and shall be performed with little or no notice to the drivers. When the driver is notified of the need to be tested, he/she shall be immediately ready or proceed directly to the collection site and submit to the required testing. The testing rates are eligible to change at the beginning of each year, per the Federal Motor Carrier Safety Regulations.
- As a practical matter relating to random selections, certain individuals will be selected multiple times and others very infrequently, if at all, over a period of years. This does not indicate a bias for a specific individual; this is a statistical characteristic of randomness. Individuals, even those who are selected as many as four times in a year, should understand they are not identified in any way to have a higher probability of actual selection.
- After a driver is selected randomly, his/her name is returned to the Consortium for possible future selection, and a chance of being selected in the future will not be changed.

d. Reasonable Suspicion (382.307)

- Per the DOT regulations 382.307d., reasonable suspicion alcohol testing shall only be required before, during or after the driver is performing a safety-sensitive function.
- Per the DOT regulation 382.307, whenever the Company has reasonable suspicion to believe that a driver has violated any alcohol or controlled substance prohibition contained in this policy, it will require the driver to submit to an alcohol and/ or controlled substance test. Any suspicion shall be based upon specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver. The observations may include indications of the chronic effects of controlled substances. These observations will only be made by a supervisor or company official who has received appropriate training and will be documented by that individual in a Supervisor's Report of Reasonable Suspicion within twenty-four (24) hours after his/ her

observation. Whenever possible, two (2) DER's shall concur with regards to the observations about the reasonable suspicion.

- All testing shall be conducted as soon as possible after the determination to test has been made. If the driver needs to be transported to the collection site, it will be by a supervisor and the driver will not be allowed to perform any safety sensitive-function or drive any company vehicle until negative results are confirmed. Appropriate measures will be taken to transport the driver home after the test has been taken to ensure the safety of the driver and the general public. Such measures may include but are not limited to calling a family member, calling a taxi or driving him/ her home.

e. Return to Duty Testing (382.309)

- FMCSR Part 382.309 says each employer shall ensure that before a driver returns to duty requiring the performance of a safety-sensitive function after engaging in conduct prohibited by Subpart B of this part concerning alcohol, the driver shall undergo a return to duty alcohol test with a result indicating an alcohol concentration of less than 0.02 units.
and
- Each employer shall ensure that before a driver returns to duty requiring the performance of a safety-sensitive function after engaging in conduct prohibited by Subpart B of this part concerning controlled substances, the driver shall undergo a return to duty controlled substance test with a result indicating a verified negative result for controlled substance use.

f. Follow-up Testing (382.311)

- Following a determination under Part 40.289a., that a driver is in need of assistance in resolving problems associated with alcohol misuse or use of controlled substances, each employer shall ensure that the driver is subject to unannounced follow-up alcohol and/or controlled substance testing as directed by a DOT certified Substance Abuse Professional (SAP) in accordance with the provision of Part 40.289b. Follow-up testing shall be conducted only when the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing safety-sensitive functions.
- Driver is responsible for any costs accrued by testing positive, including follow-up testing.
- If after 12 months, the driver is still in the follow-up program, the Employer reserves the right to terminate employment.

- Following a second confirmed positive drug and/or alcohol screen, the driver will be terminated.
- If the driver is terminated during a follow-up program, they are required by the FMCSA regulations to continue in a program while working for any Federal Motor Carrier.

g. Refusal to Submit: (382.211)

- Any driver who refuses to submit to any required test under any circumstance shall be prohibited from performing any safety-sensitive function and shall be subject to discipline as outlined in CONSEQUENCES OF POSITIVE TEST RESULTS.
- Refusal to submit (Definitions 382.107) shall be determined by any of the following circumstances, but are not limited to:
 - a. Failing to provide adequate breath, saliva or urine for testing without a valid medical explanation after the driver has received notice of a required test as well as refusal to submit to a medical evaluation as required by Subpart 40.193d. (In the case of a Pre-Employment drug test, the driver is deemed to have refused to test on this basis only if the Pre-Employment test is conducted following a contingent offer of employment.)
 - b. Engaging in conduct that disrupts the collection process.
 - c. Engaging in any conduct that creates reason to believe that a urine specimen has been altered, substituted or adulterated for the purpose of affecting the validity or accuracy of a controlled substance test result. This includes refusing to submit to an observed or monitored collection.
 - d. Failure to appear for any test, except Pre-Employment within a reasonable time as determined by Onsite Drug Testing of New England, LLC after being directed by the employer.
 - e. Leaving the scene of an accident without a valid reason before tests have been conducted.
 - f. Failure to remain at the testing site, until the testing procedures are completed.
 - g. Failure to submit to a second test that the Employer or Collector has directed the driver to take.

- h. A result reported by the MRO as being a verified, adulterated or substituted test.

V ALCOHOL & DRUG TESTING PROCEDURES (Part 40, 382 and 383)

- All procedures for drug and alcohol collection and testing shall be performed in accordance with FMCSA regulations Parts 40 (Procedures for Transportation Workplace Drug and Alcohol Testing Programs), 382 (Controlled Substance and Alcohol Use and Testing) and 383 (Commercial Drivers License Standards; Requirements and Penalties).
- Specimen collection procedures are as follows:
 - a. Positive photo ID is required either by a Federal, State or Local Government or by the DER of the Company.
 - b. Driver will be directed to remove outer clothing, including jacket, coat, hat etc. in addition to emptying their pockets of items that could adulterate the specimen. Driver is allowed to keep their wallet. A receipt will be issued for items left with the collector upon request.
 - c. Driver will be advised that failure to comply with the directions of the collector, constitutes a refusal to test.
 - d. Driver will be instructed to wash their hands prior to the collection and not again until after the specimen has been given to the collector.
 - e. Driver will choose a collection kit to be used for specimen.
 - f. Driver will be instructed to provide a sufficient specimen and is given a reasonable time limit to provide the specimen.
 - g. Driver will be instructed to initial the sample bottles, fill in their information on the chain of custody in view of the collector.
 - h. Driver will be given copy 5 of the chain of custody.
 - i. Driver will be instructed they may leave the collection facility.
- A split sample will be performed as per the DOT regulations to allow a donor that has tested positive to request the second sample be sent to a secondary laboratory for verification.

- All specimens will be collected at locations that afford privacy for the driver. Providing a urine sample will not be directly observed or monitored unless the driver's conduct indicates an attempt to tamper with or adulterate the specimen.
- If the specimen temperature is outside the acceptable range, the driver will be required to submit to a new collection using direct observation procedures as per 40.67.
- Urine samples will be tested for drugs at laboratories certified by the US Dept. of Health and Human Services (DHHS).

VI TESTING RESULTS (Subpart D, 382.401)

- All controlled substance and alcohol test results will be reported and maintained in a confidential manner and only shared with those who have a bonafide need to know, the DER, Onsite Drug Testing of New England, LLC and Department Of Transportation Agents.
- A negative-dilute specimen is considered a confirmed negative and no further action is needed.
- A negative drug or alcohol test result is indicative of having passed the test. No further action needs to be taken.
- A positive alcohol result is defined as a confirmation alcohol test of greater than or equal to 0.02 units and a drug test determined and reported as positive by the MRO.
- All drug test results, positive or negative, will be reviewed by a MRO prior to being reported to the employer. In the case of a positive test result, the MRO will contact the driver and discuss the results prior to reporting them to employer. If the driver can show a legitimate medical reason for testing positive, the MRO will report the result as negative to the employer.
- A positive controlled substance result means that the driver has failed the test and needs to be removed from safety-sensitive functions immediately. Within 72 hours, the driver may opt to have the split drug test sample sent for re-test. This must be done in writing. If the split result is other than positive for the same substance, the test is canceled and the driver may return to his safety-sensitive function.

VII. CONSEQUENCES OF POSITIVE TEST RESULTS (Part 40, Subpart 0)

- The DOT requires that anyone who refuses to test be treated as though the test was positive and all consequences for a positive test apply.
- A driver who has a verified positive test will be provided information by the employer on where to go to get guidance regarding substance abuse. All drivers that test positive must be evaluated by a substance abuse professional as per 382.503.
- Consequences for the first verified positive result will be:
 - a. Immediate unpaid suspension.
 - b. Meet with a SAP for evaluation and referral.
 - c. Follow the SAP's referral including but not limited to a Substance Abuse class.
 - d. Submit to a return-to-duty test (drug and/or alcohol) of which the results are negative.
 - e. Submit to a minimum of 6 follow-up tests maintained by the SAP and DER within the first year following the evaluation. (Follow-up tests are in addition to being selected for random testing and are paid by the driver. They do not need to be completed prior to returning to duty.)
 - a. Upon completion of the SAP referral program, including a negative drug and/or alcohol screen and the scheduling of an educational class or counseling, (302.605 and Part 40, Subpart 0), the Employer will allow the driver to return to duty.
- Consequences for the second verified positive result will be termination.

VIII GENERAL REQUIREMENTS

- All drivers must read, understand and sign the Alcohol and Drug Testing, Driver Awareness and Training Handbook to meet requirement 382.601.
- The receipt with signature, will be kept in the driver qualification file or personnel file.
- All drivers are required under Part 382.601b.11 to report any other driver's or co-driver's behavior showing any signs and symptoms of an alcohol or controlled substance problem to their immediate supervisor.

- The Town of New Boston shall insure that each driver sign a statement certifying that he/she has received a copy of the materials described in 382.601d. (Alcohol Misuse and Controlled Substances Use, Training and Referral).
- a. If a prospective driver refuses to acknowledge receipt of a copy of the materials listed above, the driver will not be hired.

References; Federal Motor Carrier Safety Regulations Handbook

Policy written by Onsite Drug Testing of New England, LLC.

Kimberly Reid, President of Onsite Drug Testing of New England has approved this policy.

Name:

Date:

Signing the “acknowledgement of receipt and review of the employer’s controlled substances and alcohol policy and educational materials form” is a requirement of Part 382.601 (d).

Any questions associated with this policy should be directed to the Designated Employer Representative (DER).

The DER is: _____

The DER contact information is:

Town of New Boston
Peter Flynn
7 Meetinghouse Road
New Boston, NH 03070

Town of New Boston Representative:

Date: